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Working Group on an Agreement on the Privileges and Immunities of the International Criminal Court
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Draft Agreement on the Privileges and Immunities of the International Criminal Court

Prepared by the Secretariat

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I. Introductory note

1. At its meeting held on 30 June 2000 the Preparatory Commission for the International Criminal Court requested the Secretariat to prepare a draft agreement on the privileges and immunities of the International Criminal Court, in connection with the work which, pursuant to resolution F of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, is to be carried out on the topic by the Preparatory Commission at its sixth session, from 27 November to 8 December 2000.

2. Following is the text of the draft Agreement prepared by the Secretariat. Footnote references indicate the sources of the respective provisions.

II. Draft Agreement on the Privileges and Immunities of the International Criminal Court

The States Parties to the present Agreement,

Whereas the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of the Plenipotentiaries establishes the International Criminal Court with the power to exercise its jurisdiction over persons for the most serious crimes of international concern;[1]

Whereas article 4 of the Rome Statute provides that the International Criminal Court shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes;[2]

Whereas article 48 of the Rome Statute provides that the International Criminal Court shall enjoy in the territory of each State Party to the Rome Statute such privileges and immunities as are necessary for the fulfilment of its purposes;[3]

Have agreed as follows:

Article 1
Use of terms

For the purposes of the present Agreement:

(a) "the Rome Statute" means the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court;

(b) "the Court" means the International Criminal Court established by the Rome Statute;[4]

(c) "States Parties" means States Parties to the present Agreement;

[1] Rome Statute of the International Criminal Court, article 1.
[2] Ibid., article 4, para. 1.
[3] Ibid., article 48, para. 1.
[4] Ibid., article 1.

(d) "Representatives of States Parties" means all delegates, deputy delegates, advisers, technical experts and secretaries of delegations;[5]

(e) "Assembly" means the Assembly of States Parties to the Rome Statute;[6]

(f) "judges" means the judges of the Court;[7]

(g) "the Presidency" means the President and the First and Second Vice-Presidents of the Court;[8]

(h) "Prosecutor" means the Prosecutor elected by the Assembly of States Parties to the Rome Statute in accordance with its article 42, paragraph 4;[9]

(i) "Deputy Prosecutors" means the Deputy Prosecutors elected by the Assembly of States Parties to the Rome Statute in accordance with its article 42, paragraph 4;[10]

(j) "Registrar" means the Registrar elected by the Court in accordance with article 43, paragraph 4, of the Rome Statute;[11]

(k) "Deputy Registrar" means the Deputy Registrar elected by the Court in accordance with article 43, paragraph 4, of the Rome Statute;[12]

(l) "officials of the Court" means the Deputy Registrar and the staff of the offices of the Prosecutor and the Registry;[13]

(m) "Secretary-General" means the Secretary-General of the United Nations;

(n) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961.

Article 2
Legal status and juridical personality of the Court

The Court shall have international legal personality and shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.[14] The Court shall possess juridical personality and shall have the legal capacity:[15]

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[5] Convention on the Privileges and Immunities of the United Nations (United Nations, *Treaty Series*, vol. 1, p.15), article IV, para. 16.

[6] Rome Statute of the International Criminal Court, article 112, para. 1.

[7] Ibid., article 36, para. 1.

[8] Ibid., article 38, para. 1.

[9] Ibid., articles 15 and 42, paras. 2 and 4.

[10] Ibid., article 42, paras. 2 and 4.

[11] Ibid., article 43, paras. 2, 4 and 5.

[12] Ibid., article 43, paras. 3, 4 and 5.

[13] Ibid., article 44, para. 1; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, (SPLOS/25); article 1 (g); Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY Headquarters Agreement) (S/1994/848), article I (n).

[14] Rome Statute of the International Criminal Court, article 4, para. 1.

[15] Convention on the Privileges and Immunities of the United Nations, article I; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 2; ICTY Headquarters Agreement , article III.

(a) To contract;

(b) To acquire and dispose of immovable and movable property;

(c) To institute legal proceedings.

Article 3
General provisions on privileges and immunities of the Court

The Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes.[16]

Article 4
Inviolability of the premises of the Court

The premises of the Court shall be inviolable.[17]

Article 5
Flag, emblem and markings

The Court shall be entitled to display its flag, emblem and markings at its premises and on vehicles and other means of transportation used for official purposes.[18]

Article 6
Immunity of the Court, its property, funds and assets

1. The Court, its property, funds and assets, wherever located and by whomsoever held, shall be immune from every form of legal process, except insofar as in any particular case the Court has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.[19]

2. The property, funds and assets of the Court, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.[20]

3. The property, funds and assets of the Court shall be exempt from restrictions, regulations, controls or moratoria of any nature.[21]

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[16] Rome Statute of the International Criminal Court, article 48, para. 1.

[17] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 3; ICTY Headquarters Agreement, article V, para. 1.

[18] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 4; ICTY Headquarters Agreement, article XIII.

[19] Convention on the Privileges and Immunities of the United Nations, article II, section 2; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 5, para. 1; ICTY Headquarters Agreement, article VIII, para. 1.

[20] Convention on the Privileges and Immunities of the United Nations, article II, section 3; Agreement on the Privileges and Immunities of the International Tribunal for the Law of Sea, article 5, para. 2; ICTY Headquarters Agreement, article V, para. 1.

[21] Convention on the Privileges and Immunities of the United Nations, article II, section 5; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 5, para. 3; ICTY Headquarters Agreement, article VIII, para. 2.

Article 7
Inviolability of archives and all documents of the Court

The archives of the Court, and in general all documents and materials belonging to the Court, held by it, made available to the Court or used by it, wherever located and by whomsoever held, shall be inviolable.[22]

Article 8
Exemption from taxes, customs duties and import or export restrictions

1. The Court, its assets, income and other property, and its operations and transactions shall be exempt from all direct taxes, which include, inter alia, income tax, capital tax, corporation tax as well as direct taxes levied by local and provincial authorities. It is understood, however, that the Court shall not claim exemption from taxes which are, in fact, no more than charges for public utility services, provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.[23]

2. The Court shall be exempt from all customs duties, import turnover taxes and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Court for its official use and in respect of its publications.[24]

3. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of in the territory of a State Party, except under conditions agreed with the competent authorities of that State Party.[25]

Article 9
Reimbursement of duties and/or taxes

1. The Court shall not, as a general rule, claim exemption from duties and taxes which are included in the price of movable and immovable property and taxes paid for services rendered. Nevertheless, when the Court for its official use makes major purchases of property and goods or services on which duties and taxes are charged or are chargeable, States Parties shall make appropriate administrative arrangements for the exemption of such charges or reimbursement of the amount of duty and/or tax paid.[26]

2. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of, except in accordance with the conditions laid down by the

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[22] Convention on the Privileges and Immunities of the United Nations, article II, section 4; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 6; ICTY Headquarters Agreement, article IX.

[23] Convention on the Privileges and Immunities of the United Nations, article II, section 7 (a); Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 9, para. 1; ICTY Headquarters Agreement, article X, paras. 1 and 4.

[24] Convention on the Privileges and Immunities of the United Nations, article II, section 7 (b); Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 9, para. 2; ICTY Headquarters Agreement, article X, para. 2 (c).

[25] Convention on the Privileges and Immunities of the United Nations, article II, section 7 (b); Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea; ICTY Headquarters Agreement, article X, para. 5.

[26] Convention on the Privileges and Immunities of the United Nations, article II, section 8; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 10, para. 1.

State Party which granted the exemption or reimbursement. No exemption or reimbursement shall be accorded in respect of charges for public utility services provided to the Court.[27]

Article 10
Funds and freedom from currency restrictions

1. Without being restricted by financial controls, regulations or financial moratoria of any kind, while carrying out its activities:[28]

(a) The Court may hold funds, currency of any kind or gold and operate accounts in any currency;

(b) The Court shall be free to transfer its funds, gold or its currency from one country to another or within any country and to convert any currency held by it into any other currency;

(c) The Court may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities;

(d) The Court shall enjoy the most favourable available rate of exchange for its financial transactions.

2. In exercising its rights under paragraph 1, the Court shall pay due regard to any representations made by any State Party insofar as it is considered that effect can be given to such representations without detriment to the interests of the Court.[29]

Article 11
Facilities in respect of communications

1. The Court shall enjoy in the territory of each State Party for the purposes of its official communications and correspondence treatment not less favourable than that accorded by the State Party concerned to any intergovernmental organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.[30]

2. No censorship shall be applied to the official communications or correspondence of the Court.[31]

3. The Court may use all appropriate means of communication, including electronic means of communication, and shall have the right to use codes or cipher

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[27] Convention on the Privileges and Immunities of the United Nations, article II, section 7 (b); Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 10, para. 2; ICTY Headquarters Agreement, article X, para. 5.

[28] Convention on the Privileges and Immunities of the United Nations, article II, section 5; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 12, para. 1; ICTY Headquarters Agreement, article VIII, para. 2.

[29] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 12, para. 2.

[30] Convention on the Privileges and Immunities of the United Nations, article III, section 9; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 8, para. 1; ICTY Headquarters Agreement, article XI, para. 1.

[31] Convention on the Privileges and Immunities of the United Nations, article III, section 9; ICTY Headquarters Agreement, article XI, para. 2.

for its official communications and correspondence. The official communications and correspondence of the Court shall be inviolable.[32]

4. The Court shall have the right to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall have the same privileges, immunities and facilities as diplomatic couriers and bags.[33]

5. The Court shall have the right to operate radio and other telecommunications equipment on its registered frequencies and those allocated to it by the States Parties concerned.[34]

Article 12
Exercise of the functions of the Court outside the headquarters

In the event that the Court pursuant to paragraph 3 of Article 3 of the Rome Statute considers it desirable to sit elsewhere than at its headquarters at The Hague in the Netherlands, the Court may conclude with the State concerned an arrangement concerning the provision of the appropriate facilities for the exercise of its functions.[35]

Article 13
Privileges and immunities of the representatives of States Parties

1. Representatives of States Parties attending meetings of the Court and the Assembly and its subsidiary organs shall, while exercising their official functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:[36]

(a) Immunity from personal arrest or detention;

(b) Immunity from legal process of any kind in respect of words spoken or written, and all acts performed by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned may have ceased to exercise their functions as representatives of States Parties;

(c) Inviolability of all papers and documents;

(d) The right to use codes, to receive papers or correspondence by courier or in sealed bags, and to receive and send electronic communications;

(e) Exemption with respect to themselves, their spouses and other members of their families forming part of their household from immigration restrictions, alien registration requirements and national service obligations in the State Party they are visiting or through which they are passing in the exercise of their functions;

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[32] Convention on the Privileges and Immunities of the United Nations, article III, section 10; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 8, para. 2; ICTY Headquarters Agreement, article XI, para. 2.

[33] Convention on the Privileges and Immunities of the United Nations, article III, section 10; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 8, para. 3.

[34] ICTY Headquarters Agreement, article VI, para. 3.

[35] Rome Statute of the International Criminal Court, article 3, paragraph 3; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 7.

[36] Convention on the Privileges and Immunities of the United Nations, article IV, section 11.

(f) The same privileges and facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(g) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys under the Vienna Convention;

(h) The same protection and repatriation facilities with respect to themselves, their spouses and other members of their families forming part of their household as are accorded to diplomatic agents in time of international crisis under the Vienna Convention;

(i) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic agents enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise as part of their personal baggage) or from excise duties or sales taxes.

2. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of States Parties attending the meetings of the Court and the Assembly are present in a State Party for the discharge of their duties shall not be considered as periods of residence.[37]

3. Privileges and immunities are accorded to the representatives of States Parties not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the work of the Court and the Assembly. Consequently, a State Party not only has the right but is under a duty to waive the immunity of its representative in any case where, in the opinion of that State Party, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.[38]

4. The provisions of paragraphs 1 and 2 of this article are not applicable as between a representative and the authorities of the State Party of which he or she is a national or of which he or she has been a representative.[39]

Article 14
Judges, Prosecutor, Deputy Prosecutors and Registrar

1. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall, when engaged on or with respect to the business of the Court, enjoy the same privileges and immunities as are accorded to heads of diplomatic missions under the Vienna Convention. After the expiry of their terms of office, they shall continue to be accorded immunity from legal process of every kind in respect of words which had been spoken or written and acts which had been performed by them in their official capacity.[40]

2. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar and members of their families forming part of their households shall be accorded every facility for leaving the country where they may happen to be and for entering and leaving the country where the Court is sitting. On journeys in connection with the exercise of their functions, they shall in all States Parties through which they may

[37] Convention on the Privileges and Immunities of the United Nations, article IV, section 13.
[38] Ibid., article IV, section 14.
[39] Ibid., article IV, section 15.
[40] Rome Statute of the International Criminal Court, article 48, para. 2.

have to pass enjoy all the privileges, immunities and facilities granted by States Parties to diplomatic agents in similar circumstances under the Vienna Convention.[41]

3. If a judge, the Prosecutor, the Deputy Prosecutor or the Registrar, for the purpose of holding themselves at the disposal of the Court, reside in any State Party other than that of which they are nationals or permanent residents, they shall, together with the members of their families forming part of their households, be accorded diplomatic privileges, immunities and facilities during the period of their residence.[42]

4. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar and members of their families forming part of their households in time of international crisis shall be accorded the same repatriation facilities as are accorded to diplomatic agents under the Vienna Convention.[43]

5. Paragraphs 1 to 4 of this article shall apply to judges of the Court even after their term of office has expired if they continue to exercise their functions in accordance with article 36, paragraph 10, of the Rome Statute.[44]

6. In order to secure for the judges, the Prosecutor, the Deputy Prosecutors and the Registrar complete freedom of speech and independence in the discharge of their functions, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their functions shall continue to be accorded, notwithstanding that the persons concerned are no longer occupying these positions or performing those functions.[45]

7. The salaries, emoluments and allowances paid to the judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall be exempt from taxation.[46] Where the incidence of any form of taxation depends upon residence, periods during which the judges, the Prosecutor, the Deputy Prosecutors and the Registrar are present in a State Party for the discharge of their functions shall not be considered as periods of residence for purposes of taxation.[47]

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[41] Privileges and Immunities of Members of the International Court of Justice, the Registry, Assessors, and Agents and Counsel of the Parties and of Witnesses and Experts (General Assembly resolution 90 (I)), para. 3; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 13, para. 2; ICTY Headquarters Agreement, article XIV, para. 1.

[42] Privileges and Immunities of Members of the International Court of Justice, the Registry, Assessors, and Agents and Counsel of the Parties and of Witnesses and Experts, para. 2; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 13, para. 3.

[43] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 13, para. 4.

[44] Ibid., article 13, para. 6.

[45] Convention on the Privileges and Immunities of the United Nations, article III, section 12; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 13, para. 7.

[46] Convention on the Privileges and Immunities of the United Nations, article V, section 18 (b); Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 11, para. 1.

[47] Convention on the Privileges and Immunities of the United Nations, article IV, section 13; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 11, para. 2.

Article 15
Officials of the Court

Officials of the Court shall enjoy in any country where they may be on the business of the Court, or in any country through which they may pass on such business, such privileges, immunities and facilities as are necessary for the independent performance of their functions.[48] In particular, they shall be accorded:[49]

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after termination of employment with the Court;

(c) Inviolability for all official papers and documents of the Court;

(d) Exemption from taxation on the salaries, emoluments and allowances paid to them by the Court;

(e) Immunity from national service obligations;

(f) Together with members of their families forming part of their household, exemption from immigration restrictions or alien registration;

(g) Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the official concerned;

(h) The same privileges in respect of exchange facilities as are accorded to the officials of comparable rank of diplomatic missions established in the State Party concerned;

(i) Together with members of their families forming part of their household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;

(j) The right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking post in the State Party in question and to re-export the same free of duty to their country of permanent residence.

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[48] Rome Statute of the International Criminal Court, article 48, para. 3; Privileges and Immunities of the International Court of Justice, the Registry, Assessors, and Agents and Counsel of the Parties and of Witnesses and Experts, para. 4 (a).

[49] Convention on the Privileges and Immunities of the United Nations, article V, section 18; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 14, para. 2; ICTY Headquarters Agreement, article XV, para. 1.

Article 16
Counsel

1. Counsel before the Court shall be accorded such treatment as is necessary for the proper functioning of the Court[50] and shall be accorded upon production of the certificate referred to in paragraph 2 of this article, during the period of their missions, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities necessary for the independent performance of their functions under the Rome Statute.[51] In particular, they shall be accorded:[52]

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after they have ceased to exercise their functions;

(c) Inviolability of documents and papers relating to the exercise of their functions as counsel;

(d) The right to receive papers or correspondence by courier or in sealed bags and to receive and send electronic communications;

(e) Exemption from immigration restrictions or alien registration;

(f) Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the State Party concerned; an inspection in such a case shall be conducted in the presence of the counsel concerned;

(g) The same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(h) The same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention.

2. Upon appointment in accordance with the Rome Statute and the Regulations of the Court, a counsel shall be provided with a certificate indicating his or her status under the signature of the Registrar. A certificate provided to a counsel shall be limited to a period of the proceedings in question.[53]

3. Where the incidence of any form of taxation depends upon residence, periods during which counsel are present in a State Party for the discharge of their functions shall not be considered as periods of residence.[54]

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[50] Rome Statute of the International Criminal Court, article 48, para. 4.

[51] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 16, para. 1; Privileges and Immunities of Members of the International Court of Justice, the Registry, Assessors, and Agents and Counsel of the Parties and of Witnesses and Experts, para. 5 (a) (i).

[52] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 15, para. 1; ICTY Headquarters Agreement, article XIX, para. 2.

[53] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 16, para. 2.

[54] Ibid., article 16, para. 4.

Article 17
Experts, witnesses and other persons required to be present at the seat of the Court

1. Experts, witnesses and other persons required to be present at the seat of the Court shall be accorded such treatment as is necessary for the proper functioning of the Court[55] and shall be accorded, during the period of their missions, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities provided for in article 16, subparagraphs (a) to (f), of the present Agreement.[56]

2. Experts, witnesses and other persons required to be present at the seat of the Court shall be accorded repatriation facilities in time of international crisis.[57]

3. Experts, witnesses and other persons accorded the privileges, immunities and facilities referred to in paragraph 1 of this article shall be provided by the Court with a document certifying that their presence is required at the seat of the Court and specifying a time period during which such presence is necessary.

Article 18
Cooperation with the authorities of States Parties

1. The Court shall cooperate at all times with the appropriate authorities of States Parties to facilitate the execution of their laws and to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities referred to in the present Agreement.[58]

2. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying privileges and immunities under the present Agreement to respect the laws and regulations of the State Party in whose territory they may be on the business of the Court or through whose territory they may pass on such business. They also have a duty not to interfere in the internal affairs of that State.[59]

Article 19
Waiver

1. Inasmuch as the privileges and immunities provided for in articles 14 to 17 of the present Agreement are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves, such privileges and immunities may be waived in accordance with article 48, paragraph 5, of the Rome Statute and the provisions of this article and there is a duty to do so in any

[55] Rome Statute of the International Criminal Court, article 48, para. 4.

[56] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 17, para. 1; Privileges and Immunities of Members of the International Court of Justice, the Registry, Assessors, and Agents and Counsel of the Parties and of Witnesses and Experts, para. 5 (a) (iii).

[57] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 17, para. 2.

[58] Article 25; ICTY Headquarters Agreement, article XXI, para. 2.

[59] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 19, para. 2; ICTY Headquarters Agreement, article XXI, para. 1.

particular case, where they can be waived without prejudice to the purpose for which they are accorded.[60]

2. The privileges and immunities may be waived:[61]

(a) In the case of a judge or the Prosecutor, by an absolute majority of the judges;

(b) In the case of the Registrar, by the Presidency of the Court;

(c) In the case of the Deputy Prosecutor and the staff of the Office of the Prosecutor, by the Prosecutor;

(d) In the case of the Deputy Registrar and the staff of the Registry, by the Registrar;

(e) In the case of counsel, experts, witnesses or any other person required to be present at the seat of the Court, by the Court in accordance with its Regulations.[62]

Article 20
Notification

The Registrar shall communicate periodically to all States Parties the categories and names of persons to which the provisions of the present Agreement shall apply, in particular the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and officials of the Court, counsel, experts, witnesses and other persons required to be present at the seat of the Court. The Prosecutor may also communicate to all States Parties information on any change in the status of these persons.[63]

Article 21
Laissez-passer

The States Parties shall recognize and accept the United Nations laissez-passer issued to the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and officials of the Court as a valid travel document.[64]

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[60] Privileges and Immunities of Members of the International Court of Justice, the Registry, Assessors, and Agents and Counsel of the Parties and of Witnesses and Experts, paras. 4 (b) and 5 (b); Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 20, para. 1; ICTY Headquarters Agreement, article XIV, para. 3, article XV, para. 5, article XVII, para. 2, article XIX, para. 4.

[61] Rome Statute of the International Criminal Court, article 48, para. 5.

[62] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 20, para. 2; ICTY Headquarters Agreement, article XIX, para. 4.

[63] ICTY Headquarters Agreement, article XXII, para. 1; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 14, para. 4.

[64] Draft Relationship Agreement between the United Nations and the International Criminal Court (PCNICC/2000/ICC-UN/L.1) article 17; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 21, para. 1.

Article 22
Visas

Applications for visas or entry/exit permits, where required, from all persons who are holders of the United Nations laissez-passer, and also from persons referred to in articles 16 and 17 of the present Agreement, who have a certificate or other document issued by the Court confirming that they are travelling on the business of the Court, shall be dealt with as speedily as possible and granted free of charge.[65]

Article 23
Settlement of disputes

1. The Court shall make suitable provisions for the settlement of:[66]

(a) Disputes arising out of contracts and other disputes of a private law character to which the Court is a party;

(b) Disputes involving any person referred to in the present Agreement who, by reason of his or her official position, enjoys immunity, if such immunity has not been waived.

2. All disputes arising out of the interpretation or application of the present Agreement shall be referred to an arbitral tribunal unless the parties have agreed to another mode of settlement. If a dispute arises between the Court and a State Party which is not settled by consultation, negotiation or other agreed mode of settlement within three months following a request by one of the parties to the dispute, it shall at the request of either party be referred for final decision to a panel of three arbitrators: one to be chosen by the Court, one to be chosen by the State Party and the third, who shall be Chairman of the panel, to be chosen by the first two arbitrators. If either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the President of the International Court of Justice shall make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the appointment of the first two arbitrators, the third arbitrator shall be chosen by the President of the International Court of Justice upon the request of the Court or the State Party. Unless the parties decide otherwise, the arbitral tribunal shall determine its own procedure. The expenses of the arbitral tribunal shall be borne by the parties to the dispute as assessed by the arbitral tribunal. The arbitral tribunal shall reach its decision by a majority of votes on the basis of the applicable rules of international law. In the absence of such rules, it shall decide *ex aequo et bono*. The decision of the arbitral tribunal shall be final and binding on the parties to the dispute, even if rendered in default of one of the parties to the dispute.[67]

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[65] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 21, para. 2; Privileges and Immunities of Members of the International Court of Justice, the Registry, Assessors, and Agents and Counsel of the Parties and of Witnesses and Experts, para. 6 (b).

[66] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 26, para. 1; ICTY Headquarters Agreement, article XXVIII, para. 1.

[67] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 26, para. 2; ICTY Headquarters Agreement, article XXVIII, para. 2.

Article 24
Signature, ratification, acceptance, approval or accession

1. The present Agreement shall be open for signature by all States until ... at the seat of the Court in The Hague and thereafter, until ... at United Nations Headquarters in New York.

2. The present Agreement is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. The present Agreement is open for accession by all States. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25
Entry into force[68]

1. The present Agreement shall enter into force thirty days after the date of deposit with the Secretary-General of the United Nations of the tenth instrument of ratification, acceptance, approval or accession.

2. For each State ratifying, accepting, approving or acceding to the present Agreement after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the Agreement shall enter into force on the thirtieth day following the deposit with the Secretary-General of the United Nations of its instrument of ratification, acceptance, approval or accession.

Article 26
Denunciation[69]

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce the present Agreement. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of the present Agreement.

Article 27
Depositary

The Secretary-General of the United Nations shall be depositary of the present Agreement.

[68] Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, article 30.

[69] Ibid., article 33.

Article 28
Authentic texts

The original of the present Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof, the undersigned, being duly authorized thereto, have signed the present Agreement.